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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,935	11/16/2005	Wolfgang Dicksander	016906-0446	3750
22428	7590	08/20/2008		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER MILLER, SAMANTHA A	
			ART UNIT	PAPER NUMBER
			3749	
			MAIL DATE	DELIVERY MODE
			08/20/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/556,935	<b>Applicant(s)</b> DIEKSANDER ET AL.	
	<b>Examiner</b> SAMANTHA A. MILLER	<b>Art Unit</b> 3749	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-6 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-6, and 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6, and 9-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Trill (5,228,475). Trill teaches in the specification and Figs. 1-3 an invention in the same field of endeavor as applicant's invention that is described in the applicant's claims.

Trill teaches:

1. An air guide housing (12) comprising an adjustable flap (28) an air inlet (col.2 ll.31-32) two air outlets (20,22), two curved tracks (the path that 38 and 38' follow shown in Fig.3 clearly as two curved tracks which by definition a line of travel or motion, [www.dictionary.com](http://www.dictionary.com) 1/7/2008) (Fig.1) arranged one above the other, two pins (38, 38') attached to the adjustable flap, and an actuating lever (36, 36') connected pivotably to a driveshaft (56) and to the adjustable flap (28) (col.5 ll.1-6), wherein the two air outlets can be closed completely or partially by means of the adjustable flap (28) (col.2 ll.54-65).

2. An air guide housing comprising an adjustable flap, two air inlets (20, 22) an air outlet (24), two curved tracks (the path that 38 and 38' follow shown in Fig.3)

arranged one above the other, two pins (38, 38') attached to the adjustable flap, and an actuating lever (36, 36') connected pivotably to a driveshaft (56) and to the adjustable flap (col.5 ll.1-6), wherein the two air outlets can be closed completely or partially by means of the adjustable flap (28) (Fig.1) (col.3 ll.11-14).

4. The curved track is straight, has straight portions or is in one radius (Fig.3 one radius).

5. A control peg (46) or a control yoke (46), wherein the control peg or control yoke guides the adjustable flap (col.4 ll.14-17, by stopping the flap from sliding to an undesirable location).

6. A carrier (42) in the air guide housing (col.4 ll.7-14) (Fig.2).

9. The actuating lever further comprises an air spoiler (62) (col.5 ll.37-46) (Fig.2).

10. A sealing edge (32) is formed (col.3 ll.38-48).

11. The two air outlets (24 and the outlet path of 26) are oriented parallel to one another (Fig.1).

12. The curved track is straight, has straight portions or is in one radius.

13. A control peg or a control yoke, wherein the control peg or control yoke guides the adjustable flap.

14. A carrier (42) module in the air guide housing (col.4 ll.7-14) (Fig.2).

15. The actuating lever further comprises an air spoiler (62) (col.5 ll.37-46) (Fig.2).

16. A sealing edge (32) is formed (col.3 ll.38-48).

17. The two air inlets (20, 22) are oriented parallel to one another (col.2 ll.55-65).

18. The two pins are guided in the curved tracks (the path that 38 and 38' follow shown in Fig.3 clearly as two curved tracks which by definition a line of travel or motion, [www.dictionary.com](http://www.dictionary.com) 1/7/2008).

19. The two pins are guided in the curved tracks (the path that 38 and 38' follow shown in Fig.3 clearly as two curved tracks which by definition a line of travel or motion, [www.dictionary.com](http://www.dictionary.com) 1/7/2008).

### ***Response to Arguments***

Applicant's arguments filed 6/11/2008 have been fully considered but they are not persuasive.

Applicant contends that TILL does not teach a track since the word track itself refers to physical structure, such as a train track. However, applicant has still not pointed out where in the Specification the word track is limited to the definition of a train track. Claims are afforded the broadest reasonable interpretation and though a train track is one definition of the word track it is not the only one. The Examiner has made it clear in all actions that the definition for track provided by, [www.Dictionary.com](http://www.Dictionary.com) Unabridged (v 1.1) based on the Random House Unabridged Dictionary, © Random House, Inc. 2006, 1/7/2008, **is a line of travel or motion**.

The rejection of claims 1-2, 4-6, and 9-19 is deemed proper.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272 9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller  
Examiner  
Art Unit 3749

/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749  
8/18/2008